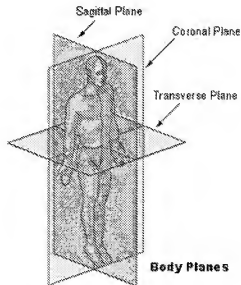


REMARKS

In response to the rejections of claims 2-4, 6, 9 and 11 under 35 U.S.C. 102(e) as being anticipated by Pisharodi, U.S. Patent. No. 6,610,093; claims 5 and 12 under 35 U.S.C. 103(a) as being unpatentable over Pisharodi, claim 10 under 35 U.S.C. 103(a) as being unpatentable over Pisharodi in view of Michelson, U.S. Patent No. 6,083,228; and claim 13 under 35 U.S.C. 103(a) as being unpatentable over Pisharodi in view of Errico et al., U.S. Patent Publication No. 2003/0069586, all rejections are respectfully traversed for the reasons that follow.

The rejected claims require that the lower cover plate of an intervertebral joint prosthesis have a lower surface with a central extent and a lateral extent **in a coronal plane**. A coronal plane (also known as the frontal plane, the latter used throughout the present disclosure) is a vertical plane that divides the body into ventral and dorsal (belly and back) sections.¹ For a human, the mid-coronal plane would transect a standing body into two halves (front and back, or anterior and posterior) in an imaginary line that cuts through both shoulders.



With this understanding, claim 11 further requires that the lateral extent of a lower surface of a lower plate extend from a central extent to a lateral side of the lower cover plate. The central extent **protrudes downward beyond the lateral extent**. The lateral extent has an incline relative to a transverse plane wherein the coronal plane and the transverse plane are relative to an orientation of the prosthesis in an implanted position.

¹ coronal ...3: of or relating to the frontal plane that passes through the long axis of the body. Webster's Medical Desk Dictionary (1993).

Thus, claim 11 requires a configuration as embodied by the structures shown in Figures 4 and 8 – 13 of the drawings. Figure A at right includes these figures showing the required orientation relative to a coronal plane.

In contrast, Pisharodi describes a device that has a flat lower surface relative to a coronal plane, any curvature is only with respect to a sagittal plane (i.e., an imaginary plane that travels

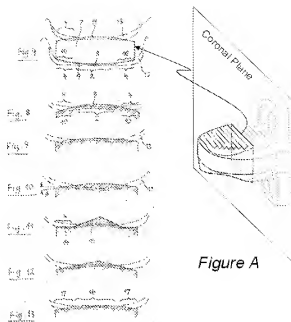


Figure A

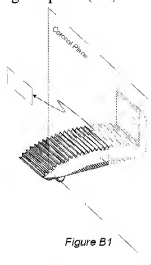


Figure B1

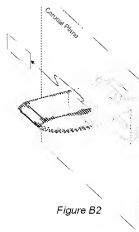


Figure B2

from the top to the bottom of the body, dividing it into left and right portions²) as shown in Figures 2 – 6 of the patent. As illustrated in Figures B1 and B2 at left, Pisharod's lower surface in the coronal plane is flat considering either major portion of the device. There is no central extent in a coronal plane that protrudes downward beyond a lateral extent with the lateral extent inclined relative to a transverse plane.

To further assist the Examiner's understanding of the orientation of applicants' device with respect to an implanted position, reference is made to the attached sheet of drawings. Figures C, D and H correspond to Figures 1, 2 and 3, respectively, of Pisharodi, while Figure E illustrates the device of Pisharodi's Figure 7 as it would be implanted in a human cervical spine. Note that there is no central portion in the coronal plane that protrudes downward beyond a lateral portion. Figures F and G illustrate an embodiment as depicted in Figure

² sagittal: ...2: of, relating to, situated in, or being the median plane of the body or any plane parallel to it <a ~ section dividing the body into unequal right and left parts>. Webster's Medical Desk Dictionary (1993).

4 of applicants' disclosure as it might be implanted in a human cervical spine. Note that, in the coronal plane view, a lower plate has a lower surface with a central extent protruding downward beyond a lateral extent. Figures J illustrates the prosthesis of Figure I (the latter corresponding to applicants' Figure 23) as it might be implanted in a human cervical spine, the double-headed arrow of Fig. G illustrating the lateral extent having an incline relative to a transverse plane. For reference, Figure K depicts the three planes of the body used to describe the location of body parts in relation to each other.

As Pisharodi fails to describe or suggest the subject matter of claim 11 including, in combination, a central extent in a coronal plane that protrudes downward beyond a lateral extent with the lateral extent inclined relative to a transverse plane, it fails to anticipate or render obvious claim 11. Dependent claims 2-4, 6 and 9 are all allowable at least due to their respective dependencies and in view of the failure of the cited references to teach or suggest the features of the independent claim 11. Accordingly, the rejection of claims 2-4, 6, 9 and 11 under 35 U.S.C. 102(e) is improper and withdrawal thereof respectfully requested.

Likewise, the rejections of claims 5, 10, 12, and 13 under 35 U.S.C. 103(a) are traversed. These dependent claims are all allowable at least due to their respective dependencies and in view of the failure of the cited references to teach or suggest the features of independent claim 11. The addition of Michelson with respect to claim 10 and Errico with respect to claim 13 does not save the rejections of those claims, the additional art also failing to teach or suggest, alone or in combination with Pisharodi, the features of independent claim 11 for the reasons presented above. Accordingly withdrawal of the rejections of claims 5, 10, 12, and 13 under 35 U.S.C. 103(a) is respectfully requested.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge

the cost of such petitions and/or other fees due in connection with the filing of this document to
Deposit Account No. 03-1952 referencing docket no. 246472008500.

Respectfully submitted,

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